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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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12 MIGUEL HERNANDEZ,) Case No. CV 25-0999-JPR
13 Plaintiff,)
14 v.) ORDER GRANTING PLAINTIFF'S MOTION
15 SO CAL AUTO CLINIC et al.,) FOR ENTRY OF DEFAULT JUDGMENT
16 Defendants.)
17

18 On February 5, 2025, Plaintiff filed a Complaint against So
19 Cal Auto Clinic and Anoush Papazian, as trustee of the Anoush
20 Papazian Trust, claiming violations of the Americans with
21 Disabilities Act of 1990, the Unruh Civil Rights Act, the
22 California Disabled Persons Act, and California Health and Safety
23 Code section 19955 and alleging negligence under state law as
24 well. (Compl., ECF No. 1 at 4-10 (throughout, the Court uses the
25 pagination generated by its Case Management/Electronic Case
26 Filing system).)

27 Plaintiff purportedly served copies of the Summons,
28 Complaint, and related documents on Papazian by substitute

1 service at his home on February 27, 2025 (Proof Serv., ECF No. 8
2 at 1), and on So Cal Auto Clinic by personal service on February
3 28 (Proof Serv., ECF No. 9 at 1). Defendants failed to respond
4 to the Complaint or otherwise appear. The Clerk entered default
5 against So Cal Auto Clinic and Papazian on March 26 and April 2,
6 2025, respectively. (See Default, ECF Nos. 11 & 13.)

7 On April 18, 2025, the Clerk notified the parties that
8 "pursuant to the Local Rules," the period to decline consent to
9 the magistrate judge had expired and that all parties therefore
10 had knowingly and voluntarily consented to proceed before the
11 magistrate judge for all purposes.¹ (See ECF No. 14.)

12
13 ¹ Those local rules, enacted in December 2024, provide that
14 when a case is directly assigned to a magistrate judge upon filing,
15 as here, a defendant's time to opt out of having that magistrate
16 judge preside over the case for all purposes runs from when the
17 Notice of Assignment to U.S. Magistrate Judge and Declination of
18 Consent form was served on the defendant. C.D. Cal. R. 73-2.1. If
19 the defendant does not timely affirmatively opt out of having the
20 magistrate judge preside, the defendant will be deemed to have
21 consented to such jurisdiction. C.D. Cal. R. 73-2.2. Here,
22 Papazian's and So Cal Auto Clinic's time to opt out expired on
23 March 13 and 14, 2025, respectively, and no declinations of consent
24 were received before then. (See Proofs Service, ECF Nos. 8 & 9.)
25 It has not yet been resolved whether these rules as they apply to
26 defendants who never appear are consistent with authority. See
27 Roell v. Withrow, 538 U.S. 580, 590 & n.3 (2003) (finding that
28 consent to magistrate-judge jurisdiction may be implied when party
whose express consent was not obtained "voluntarily appeared to try
the case before the Magistrate Judge" and noting that "appearance"
requires "overt act"); cf. Allen v. Meyer, 755 F.3d 866, 867-68
(9th Cir. 2014) (finding that consent could not be implied when
defendants twice failed to respond to express inquiry about whether
they consented to magistrate-judge jurisdiction even though
defendants had taken affirmative step of filing reply brief to
motion to dismiss after first such inquiry). But this Court is of
course subject to the Local Rules, and because there is no
mechanism provided by those rules for this case to be reassigned to
a District Judge in these circumstances, the Court provides
Plaintiff with the relief to which it believes he is entitled.

1 On June 4, 2025, Plaintiff moved for entry of default
2 judgment and set the motion for hearing on July 10, 2025.
3 Defendants did not file opposition. On July 3, 2025, the Court
4 vacated the hearing after finding the matter appropriate for
5 decision without oral argument. See Fed. R. Civ. P. 78(b); C.D.
6 Cal. R. 7-15. For the following reasons, Plaintiff's Motion for
7 Default Judgment is GRANTED.

8 **FACTUAL BACKGROUND**

9 Plaintiff is a California resident with a physical
10 disability. (Compl., ECF No. 1 at 2.) He "suffers from
11 paraplegia, chronic pain with hypertension secondary to the
12 injury and lumbar strain, and is substantially limited in his
13 ability to walk," and he "requires the use of a wheelchair at all
14 times when traveling in public." (Id.) "Defendants are, or were
15 at the time of the incident, the real property owners, business
16 operators, lessors and/or lessees of the real property for an
17 auto repair shop . . . located at or about 7026 Foothill Blvd.,
18 Tujunga, California." (Id.) The shop is a "business
19 establishment, open to the public, and is a place of public
20 accommodation that affects commerce through its operation." (Id.
21 at 3.)

22 In October 2024, Plaintiff visited Defendants' repair shop
23 and "personally encountered a number of barriers that interfered
24 with his ability to use and enjoy the goods, services,
25 privileges, and accommodations offered." (Id.) Among them, the
26 entrance had a step but no ramp. (Id.) Plaintiff alleges that
27 additional barriers to entry were identified after further site
28 inspection. (Id. at 4.) Although Plaintiff wishes to return and

1 patronize the shop, he is deterred from doing so because of the
2 alleged violations. (Id. at 3.) Defendants have the "financial
3 resources to remove the[] barriers without much difficulty or
4 expenses" but have not done so or otherwise modified the business
5 to conform to the accessibility regulations. (Id. at 4.)

6 The Complaint seeks injunctive relief directing Defendants
7 to comply with the ADA and Unruh Civil Rights Act; statutory,
8 general, and treble damages; restitution; attorney's fees,
9 expenses, and costs; prejudgment interest under California Civil
10 Code section 3291; and "[s]uch other and further relief as the
11 Court deems just and proper." (Id. at 10.)

12 **LEGAL STANDARD**

13 Under Rule 55(b) of the Federal Rules of Civil Procedure, a
14 court-ordered default judgment may be entered after entry of
15 default by the court clerk under Rule 55(a). A court's decision
16 to enter default judgment is a "discretionary one." Aldabe v.
17 Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980) (per curiam). When
18 determining whether entry of default judgment is appropriate,
19 courts consider the following seven factors:

20 (1) the possibility of prejudice to the plaintiff, (2)
21 the merits of plaintiff's substantive claim, (3) the
22 sufficiency of the complaint, (4) the sum of money at
23 stake in the action; (5) the possibility of a dispute
24 concerning material facts; (6) whether the default was
25 due to excusable neglect, and (7) the strong policy
26 underlying the Federal Rules of Civil Procedure favoring
27 decisions on the merits.

28 Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

1 "The general rule of law is that upon default the factual
2 allegations of the complaint, except those relating to the amount
3 of damages, will be taken as true." TeleVideo Sys., Inc. v.
4 Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987) (per curiam);
5 see also DIRECTV, Inc. v. Hoa Huynh, 503 F.3d 847, 851 (9th Cir.
6 2007) ("[I]n defaulting, defendants are deemed to have admitted
7 all well-pleaded factual allegations contained in the
8 complaints.").

9 DISCUSSION

10 I. Subject-Matter Jurisdiction

11 "When entry of judgment is sought against a party who has
12 failed to plead or otherwise defend, a district court has an
13 affirmative duty to look into its jurisdiction over both the
14 subject matter and the parties." In re Tuli, 172 F.3d 707, 712
15 (9th Cir. 1999). Here, the Court has subject-matter jurisdiction
16 over Plaintiff's ADA claim. See 28 U.S.C. §§ 1331 ("The district
17 courts shall have original jurisdiction of all civil actions
18 arising under the Constitution, laws, or treaties of the United
19 States.") & 1343(a)(3)-(4). In addition, the Court exercises
20 supplemental jurisdiction over Plaintiff's state-law claims. See
21 § 1367(a) (courts have supplemental jurisdiction over "claims
22 that are so related to claims in the action within such original
23 jurisdiction that they form part of the same case or controversy
24 under Article III of the United States Constitution").²

25 II. Service of Process

26 A federal court does not have jurisdiction over a defendant
27

28 ² Because the Court enters default judgment on all claims, the
April 23, 2025 order to show cause (ECF No. 15) is discharged.

1 until the defendant has been served properly under Federal Rule
2 of Civil Procedure 4. Direct Mail Specialists, Inc. v. Eclat
3 Computerized Techs., Inc., 840 F.2d 685, 688 (9th Cir. 1988).
4 Rule 4 is a "flexible rule," however, and "should be liberally
5 construed so long as a party receives sufficient notice of the
6 complaint." Id. (citations omitted).

7 An individual within a U.S. judicial district is properly
8 served by leaving a copy of the summons and complaint at the
9 "individual's dwelling or usual place of abode with someone of
10 suitable age and discretion who resides there," among other
11 methods. Fed. R. Civ. P. 4(e)(2)(B). A corporation within a
12 U.S. judicial district is properly served when it is served "in
13 the manner prescribed by Rule 4(e)(1)" or "by delivering a copy
14 of the summons and of the complaint to an officer, a managing or
15 general agent, or any other agent authorized by appointment or by
16 law to receive service of process and – if the agent is one
17 authorized by statute and the statute so requires – by also
18 mailing a copy of each to the defendant." Fed. R. Civ. P.
19 4(h)(1).

20 Papazian purportedly was served on February 27, 2025, by
21 substitute service at his home. (Proof Serv., ECF No. 8 at 1.)
22 Copies of the Summons, Complaint, and other documents were left
23 with a 65-year-old male "[c]oresident," and additional copies
24 were mailed to the residence later that same day. (Id.) So Cal
25 Auto Clinic purportedly was served on February 28, 2025, by
26 personal service. (Proof Serv., ECF No. 9 at 1.) Copies of the
27 Summons, Complaint, and related documents were delivered to Vigen
28 Shirvanyan, apparently So Cal Auto Clinic's authorized agent.

1 (Id.)

2 Thus, Defendants appear to have been properly served.

3 **III. Procedural Requirements**

4 Local Rule 55-1 requires the party moving for default
5 judgment to submit a declaration that 1) states "[w]hen and
6 against what party the default was entered"; 2) identifies the
7 pleading as to which default was entered; 3) states "[w]hether
8 the defaulting party is an infant or incompetent person, and if
9 so, whether that person is represented by a general guardian,
10 committee, conservator or other representative"; 4) affirms that
11 the Servicemembers Civil Relief Act does not apply; and 5)
12 confirms that notice of the motion for default judgment has been
13 served on the defaulting party, if required by Federal Rule of
14 Civil Procedure 55(b) (2) .

15 Plaintiff's counsel submitted a declaration stating that 1)
16 the Clerk entered default against Defendants So Cal Auto Clinic
17 and Papazian on March 26 and April 2, 2025, respectively; 2)
18 default was entered on Plaintiff's February 5, 2025 Complaint; 3)
19 Defendants are not infants or incompetent persons; and 4)
20 Defendants are not in military service or otherwise covered by
21 the Servicemembers Civil Relief Act. (Kim Decl., ECF No. 18-2
22 ¶¶ 3-5.) Further, Plaintiff served the motion for default
23 judgment on Defendants. (See Proof Serv., ECF No. 18-6 at 2.)

24 Accordingly, the procedural requirements have been
25 satisfied.

26 **IV. The Eitel Factors**

27 A. Possibility of Prejudice to Plaintiff

28 Under the first Eitel factor, courts consider whether a

1 plaintiff would be prejudiced without a default judgment. 782
2 F.2d at 1471. Generally, a plaintiff may suffer prejudice when
3 there is no "recourse for recovery" other than default judgment.
4 PepsiCo, Inc. v. Cal. Sec. Cans, 238 F. Supp. 2d 1172, 1177 (C.D.
5 Cal. 2002); see also Amini Innovation Corp. v. KTY Int'l Mktg.,
6 768 F. Supp. 2d 1049, 1054 (C.D. Cal. 2011) ("If the Court does
7 not enter a default judgment, it will allow Defendant to avoid
8 liability by not responding to Plaintiff's claims."). Because
9 Defendants have not answered or otherwise appeared in this suit,
10 Plaintiff will be without recourse for recovery and will likely
11 suffer prejudice without default judgment.

12 For this reason, the first Eitel factor weighs in favor of
13 default judgment.

14 B. Substantive Merits and Sufficiency of the Complaint

15 The second and third Eitel factors require that a plaintiff
16 "state a claim on which the [plaintiff] may recover." PepsiCo,
17 Inc., 238 F. Supp. 2d at 1175 (alteration in original).

18 As discussed below, the Complaint sufficiently raises claims
19 for violations of the Americans with Disabilities Act of 1990,
20 the Unruh Civil Rights Act, the California Disabled Persons Act,
21 and California Health and Safety Code section 19955 and for
22 negligence under state law. (Compl., ECF No. 1 at 4-10.)

23 1. The ADA claim

24 "Title III of the ADA prohibits discrimination on the basis
25 of disability in the 'full and equal enjoyment of the goods,
26 services, facilities, privileges, advantages, or accommodations
27 of any place of public accommodation' with a nexus in interstate
28 commerce." Oliver v. Ralphs Grocery Co., 654 F.3d 903, 904 (9th

1 Cir. 2011) (quoting 42 U.S.C. § 12182(a)). To succeed on such a
2 claim, plaintiffs must establish that 1) they are disabled within
3 the meaning of the ADA; 2) the defendant "is a private entity
4 that owns, leases, or operates a place of public accommodation";
5 and 3) the defendant discriminated against them by denying them
6 public accommodations because of their disability. Lopez v.
7 Catalina Channel Express, Inc., 974 F.3d 1030, 1033 (9th Cir.
8 2020) (citations omitted).

9 a. *Plaintiff's disabled status*

10 Under the ADA, disability is defined as "a physical or
11 mental impairment that substantially limits one or more major
12 life activities of such individual." 42 U.S.C. § 12102(1)(A).
13 Major life activities include "walking." § 12102(2)(A).

14 Plaintiff alleges that he "suffers from paraplegia," among
15 other infirmities, and "is substantially limited in his ability
16 to walk." (Compl., ECF No. 1 at 2.) He "requires the use of a
17 wheelchair at all times when traveling in public." (Id.)
18 Because his impairments substantially limit his ability to walk,
19 which is a major life activity, he has sufficiently alleged that
20 he is disabled within the meaning of the ADA and has thus
21 satisfied this factor.

22 b. *Place of public accommodation*

23 The ADA provides that certain private entities, such as
24 "service establishments," are places of public accommodation "if
25 the operations of such entities affect commerce." 42 U.S.C.
26 § 12181(7)(F). Service establishments include a "shoe repair
27 service" and gas stations. Id.

28 Plaintiff alleges that So Cal Auto Clinic is "an auto repair

1 shop business establishment, open to the public, and is a place
2 of public accommodation that affects commerce through its
3 operation." (Compl., ECF No. 1 at 3.) An auto repair shop is
4 similar in kind to qualifying service establishments such as a
5 gas station or a shoe repair service. See § 12181(7)(F); see
6 also Fernandez v. Brother's Auto Repair, Inc., No. CV 19-5194 DSF
7 (JEMx), 2020 WL 13916174, at *2 (C.D. Cal. Feb. 10, 2020)
8 (finding that auto repair shop was "service establishment" and
9 thus place of public accommodation under ADA). Accordingly,
10 Plaintiff has sufficiently alleged that So Cal Auto Clinic is a
11 place of public accommodation.

12 c. *Denial of public accommodation because of*
13 *Plaintiff's disability*

14 Under the ADA, discrimination by a place of public
15 accommodation may include "failure to remove architectural
16 barriers . . . in existing facilities, . . . where such removal
17 is readily achievable." 42 U.S.C. § 12182(b)(2)(A)(iv).
18 Plaintiffs bear the initial burden of showing that the required
19 alterations would be "readily achievable." Lopez, 974 F.3d at
20 1038. To satisfy that burden, "ADA plaintiffs must plausibly
21 show how the cost of removing the architectural barrier at issue
22 does not exceed the benefits under the circumstances." Id. The
23 ADA requires courts to consider four factors when determining if
24 the removal of a barrier is readily achievable in a given
25 situation. The factors are

- 26 (A) the nature and cost of the action needed [];
27 (B) the overall financial resources of the facility or
28 facilities involved in the action; the number of persons

1 employed at such facility; the effect on expenses and
2 resources, or the impact otherwise of such action upon
3 the operation of the facility;

4 (C) the overall financial resources of the covered
5 entity; the overall size of the business of a covered
6 entity with respect to the number of its employees; the
7 number, type, and location of its facilities; and

8 (D) the type of operation or operations of the covered
9 entity, including the composition, structure, and
10 functions of the workforce of such entity; the geographic
11 separateness, administrative or fiscal relationship of
12 the facility or facilities in question to the covered
13 entity.

14 Lopez, 974 F.3d at 1038 (citing § 12181(9)(A)-(D)). But
15 "plaintiffs are not required to address in detail each of the
16 four factors to meet their initial burden of plausibly explaining
17 why it is readily achievable to remove an architectural barrier."
18 Id.

19 Plaintiff alleges that "Defendants failed to provide at
20 least one accessible entrance as required as the entrance had a
21 step instead of a proper ramp." (Compl., ECF No. 1 at 3.)
22 Because of that and other unidentified barriers and conditions,
23 Plaintiff was denied "full and equal access." (Id.)

24 Plaintiff does not allege in the Complaint what alterations
25 are required, only that Defendants "had and still have the
26 financial resources to remove the[] barriers without much
27 difficulty or expenses." (Id. at 4.) He asserts in the motion
28 that removal of the step barrier "appears to be readily

1 achievable and limited to some concrete work to have a ramp to
2 the entryway, a temporary ramp made readily available during
3 operating hours, or an alternate accessible entrance provided.”
4 (Mot. Default J., Mem. P. & A., ECF No. 18-1 at 9.) Although
5 Plaintiff certainly could and perhaps should have said more on
6 this point, see, e.g., Benford v. Meza, No. CV 24-06883-MWF
7 (JCx), 2025 WL 1720197, at *4 (C.D. Cal. Feb. 4, 2025) (denying
8 motion for default judgment when plaintiff “provide[d] no
9 information” as to size of barrier or cost to fix it), he has
10 alleged the bare minimum of facts plausibly showing that removing
11 the barrier is readily achievable because the costs of providing
12 a ramp are likely relatively minimal, see Lopez, 974 F.3d at
13 1038.

14 2. The state-law claims

15 The Unruh Civil Rights Act provides that “[a]ll persons
16 within the jurisdiction of [California] are free and equal, and
17 no matter what their . . . disability . . . are entitled to the
18 full and equal accommodations, advantages, facilities,
19 privileges, or services in all business establishments of every
20 kind whatsoever.” Cal. Civ. Code § 51(b). Under section 51(f),
21 “[a] violation of the right of any individual under the federal
22 Americans with Disabilities Act of 1990 . . . shall also
23 constitute a violation of this section.”

24 Because Plaintiff has sufficiently pleaded an ADA claim, he
25 has also adequately pleaded a claim under the Unruh Civil Rights
26 Act. See id.

27 For these reasons, the second and third Eitel factors weigh
28 in favor of default judgment.

1 C. Amount at Stake

2 "The fourth Eitel factor examines the amount of money at
3 stake in the action relative to the gravity of the defendant's
4 conduct." Allstate Life Ins. Co. v. Markowitz, 590 F. Supp. 3d
5 1210, 1216 (C.D. Cal. 2022). Courts are required to "assess
6 whether the recovery sought is proportional to the harm caused by
7 defendant's conduct." Landstar Ranger, Inc. v. Parth Enters.,
8 Inc., 725 F. Supp. 2d 916, 921 (C.D. Cal. 2010). This factor
9 weighs against default judgment when the sum of money at stake is
10 too large or unreasonable given the defendant's conduct. KKMI
11 Sausalito, LLC v. Vessel "Self Inflicted", 428 F. Supp. 3d 200,
12 208 (N.D. Cal. 2019) ("A default judgment is only disfavored when
13 a large amount of money is involved or is unreasonable in light
14 of Defendant's actions.").

15 Plaintiff seeks injunctive relief and \$4,000 in statutory
16 damages, \$2,755 in attorney's fees, and \$670 in costs, for a
17 total of \$7,425. (Mot. Default J., ECF No. 18 at 2; Mem. P. &
18 A., ECF No. 18-1 at 9; see also Compl., ECF No. 1 at 10.) Such
19 an award is reasonably proportionate in this context. See, e.g.,
20 Vogel v. Rite Aid Corp., 992 F. Supp. 2d 998, 1012 (C.D. Cal.
21 2014) (finding that \$13,739.20 judgment against defendant,
22 consisting of statutory damages and attorney's fees and costs,
23 was "neither too large nor to[o] unreasonable when balanced
24 against [defendant's] actions" and that the relief was "needed"
25 given defendant's "failure to appear and defend, and thus his
26 failure to show that he has complied with the ADA or Unruh Act"),
27 abrogated on other grounds by Lopez, 974 F.3d at 1038; Raglin v.
28 May, No. 2:24-cv-06279-MEMF-MAR, 2025 WL 1018381, at *5 (C.D.

1 Cal. Apr. 3, 2025) (finding that award of \$4,000 damages and
2 attorney's fees and costs of \$3,245 weighed in favor of default
3 judgment).

4 Accordingly, the fourth Eitel factor weighs in favor of
5 default judgment.

6 D. Possibility of Dispute

7 "The fifth Eitel factor considers the possibility of dispute
8 as to any material facts in the case." PepsiCo, Inc., 238 F.
9 Supp. 2d at 1177. As explained above, on default "the factual
10 allegations of the complaint, except those relating to the amount
11 of damages, will be taken as true." TeleVideo Sys., Inc., 826
12 F.2d at 917-18. Here, Defendants have not appeared in this
13 action and default has been entered, and it is thus unlikely that
14 a dispute as to material facts will arise. See Elektra Ent. Grp.
15 Inc. v. Crawford, 226 F.R.D. 388, 393 (C.D. Cal. 2005) ("Because
16 all allegations in a well-pleaded complaint are taken as true
17 after the court clerk enters default judgment, there is no
18 likelihood that any genuine issue of material fact exists.").

19 For these reasons, the fifth Eitel factor weighs in favor of
20 default judgment.

21 E. Possibility of Excusable Neglect

22 Under the sixth Eitel factor, courts consider the
23 possibility that the default resulted from excusable neglect.
24 782 F.2d at 1472. Generally, this factor weighs in favor of
25 default judgment if a defendant was properly served with the
26 summons and complaint. See Allstate Life Ins. Co., 590 F. Supp.
27 3d at 1216. Here, Defendants appear to have been properly served
28 with the Complaint and Summons. (See Proofs Serv., ECF Nos. 8 &

1 9.) Thus, there likely is no excusable neglect. See Bailey v.
2 Pot Shop Inc, No. 5:24-cv-01456-SSS-DTBx, 2024 WL 5423062, at *3
3 (C.D. Cal. Dec. 18, 2024) (sixth Eitel factor weighed in favor of
4 default judgment because defendants were served with complaint
5 and failed to act despite opportunity to do so).

6 For that reason, this factor weighs in favor of default
7 judgment.

8 F. Policy Favoring Decisions on the Merits

9 Default judgment is "ordinarily disfavored," and cases
10 "should be decided upon their merits whenever reasonably
11 possible." Eitel, 782 F.2d at 1472. Although this factor
12 generally weighs against default judgment, it is "not
13 dispositive." PepsiCo, Inc., 238 F. Supp. 2d at 1177 (citation
14 omitted).

15 * * *

16 For all these reasons, the Eitel factors weigh in favor of
17 default judgment. The Motion is therefore GRANTED.

18 **V. Requested Relief**

19 Plaintiff seeks injunctive relief, statutory damages, and
20 attorney's fees and costs. (Compl., ECF No. 1 at 10; Mot.
21 Default J., ECF No. 18 at 2.)

22 A. Injunctive Relief

23 The ADA provides for injunctive relief, which "shall include
24 an order to alter facilities to make such facilities readily
25 accessible to and usable by individuals with disabilities to the
26 extent required by" law. 42 U.S.C. § 12188(a). "[T]he standard
27 requirements for equitable relief need not be satisfied when an
28 injunction is sought to prevent the violation of a federal

1 statute which specifically provides for injunctive relief.”
2 Antoninetti v. Chipotle Mexican Grill, Inc., 643 F.3d 1165, 1175
3 (9th Cir. 2010) (as amended) (citations omitted).

4 Here, as explained above, Plaintiff has stated a claim for
5 violation of the ADA and can thus obtain an injunction ordering
6 Defendants to provide an entryway compliant with the ADA.

7 B. Statutory Damages

8 The Unruh Civil Rights Act provides for an award of damages
9 “up to a maximum of three times the amount of actual damage but
10 in no case less than four thousand dollars (\$4,000).” Cal. Civ.
11 Code § 52(a). Prevailing litigants “need not prove [they]
12 suffered actual damages to recover the independent statutory
13 damages of \$4,000.” Molski v. M.J. Cable, Inc., 481 F.3d 724,
14 731 (9th Cir. 2007).

15 As explained above, Plaintiff prevails on his Unruh Civil
16 Rights Act claim, as to which he requests the minimum \$4,000; he
17 has not asked for any other statutory damages. (See Mot., ECF
18 No. 18-1 at 6, 9.) Thus, he is entitled to statutory damages in
19 the amount of \$4,000.

20 C. Attorney’s Fees and Costs

21 Plaintiffs who prevail on ADA claims may be awarded “a
22 reasonable attorney’s fee, including litigation expenses, and
23 costs.” 42 U.S.C. § 12205. The Unruh Civil Rights Act similarly
24 provides for attorney’s fees. See Cal. Civ. Code § 52(a).

25 1. Attorney’s fees

26 Generally, attorney’s fees awarded on default judgment are
27 calculated according to the fee schedule provided in Local Rule
28 55-3. For judgments in an amount between \$1,000.01 and

1 \$10,000.00, attorney's-fees awards are \$300 plus 10 percent of
2 the amount over \$1,000. Id. "An attorney claiming a fee in
3 excess of this schedule may file a written request at the time of
4 entry of the default judgment to have the attorney's fee fixed by
5 the Court." Id. If a party timely makes such a request, the
6 court "must hear the request and award a 'reasonable' fee . . .
7 without using the fee schedule as a starting point." Vogel v.
8 Harbor Plaza Ctr., LLC, 893 F.3d 1152, 1159 (9th Cir. 2018).
9 "The most useful starting point for determining the amount of a
10 reasonable fee is the number of hours reasonably expended on the
11 litigation multiplied by a reasonable hourly rate." Id. at 1158
12 (citing Hensley v. Eckerhart, 461 U.S. 424, 433 (1983)).

13 Plaintiff requests that the Court affix attorney's fees and
14 argues that it is inappropriate to use Local Rule 55's default
15 fee schedule. (Mot. Default J., Mem. P. & A., ECF No. 18-1 at
16 12-13.) He seeks \$2,755 in attorney's fees, including 4.10
17 attorney hours that Plaintiff's counsel, Jason J. Kim, billed at
18 \$500 an hour and 4.70 hours that a paralegal billed at \$150 an
19 hour. (Kim Decl., Ex. A, ECF No. 18-2 at 5-6.) The requested
20 hourly rates are reasonable. See Harrell v. Restaurante, No.
21 5:24-cv-00938-SSS-SHKx, 2024 WL 5411194, at *5 (C.D. Cal. Dec.
22 17, 2024) (finding so in similar ADA case filed by Plaintiff's
23 attorney).

24 Most of the paralegal's requested fees are not compensable,
25 however. Plaintiff seeks \$555 for 3.70 hours of paralegal time
26 to eFile the initial pleadings and other case filings, create the
27 case file, gather and copy documents, and calendar the order to
28 show cause regarding supplemental jurisdiction and the motion for

1 default judgment. (See id. (billing entries from Feb. 5 & 21;
2 Mar. 3, 4, & 24; Apr. 1 & 23; May 21; and June 4, 2025).) These
3 activities are clerical in nature, and Defendants shouldn't have
4 to pay a paralegal's hourly rate for tasks that could have been
5 performed by someone without such advanced skills and training.
6 See Nadarajah v. Holder, 569 F.3d 906, 921 (9th Cir. 2009)
7 (holding that "filing, transcript, and document organization time
8 was clerical in nature and should have been subsumed in firm
9 overhead"); Missouri v. Jenkins, 491 U.S. 274, 288 n.10 (1989)
10 ("[P]urely clerical or secretarial tasks should not be billed at
11 a paralegal rate, regardless of who performs them."); Operating
12 Eng'rs' Health & Welfare Tr. Fund v. Ag-Tech Inc., No.
13 18-cv-05411-JSC, 2019 WL 5088804, at *8 (N.D. Cal. July 19, 2019)
14 (reducing amount of attorney's fees requested by plaintiff on
15 entry of default judgment to extent paralegal time was for
16 clerical tasks, including eFiling documents and calendaring
17 deadlines), accepted by 2019 WL 5103816 (N.D. Cal. Oct. 11,
18 2019); Moore v. Millenium Acquisitions, LLC, No. 1:14-cv-01402-
19 DAD-SAB, 2017 WL 1079753, at *6 (E.D. Cal. Mar. 21, 2017)
20 (reducing amount of attorney's fees requested by prevailing
21 plaintiff in ADA accessibility action to extent paralegal time
22 was for clerical tasks). Thus, the Court reduces the number of
23 paralegal hours by 3.7.

24 Further, Plaintiff's counsel engaged in block billing. But
25 the only place that matters is the May 7, 2025 entry, as to which
26 the Court is unable to tell how much of the total .40 of an hour
27 billed was spent on attorney tasks and how much on noncompensable
28 clerical chores. (See Kim Decl., Ex. A, ECF No. 18-2 at 6

1 (billing entry listing "[d]raft & eFile OSC re: Supplemental
2 Jurisdiction; [g]ather supporting [d]eclarations").) Thus, the
3 Court reduces the number of hours by that .40 because counsel has
4 not met his burden of showing reasonableness.

5 Plaintiff is thus awarded attorney's fees in the amount of
6 \$2,000, for 3.7 hours of attorney time at \$500 an hour and one
7 hour of paralegal time at \$150 an hour. That is "commensurate
8 with the complexity level of these ADA cases." Shayler v. 1310
9 PCH, LLC, 51 F.4th 1015, 1021 (9th Cir. 2022).

10 2. Costs

11 Under Federal Rule of Civil Procedure 54(d), "[u]nless a
12 federal statute, these rules, or a court order provides
13 otherwise, costs – other than attorney's fees – should be allowed
14 to the prevailing party." The "prevailing party" is the "party
15 in whose favor judgment is entered, unless otherwise determined
16 by the Court." C.D. Cal. R. 54-1.

17 Plaintiff seeks a total of \$670 in costs, for purchase of a
18 deed, gas and mileage reimbursement, the filing fee, and service
19 of process. (Kim Decl., Ex. A, ECF No. 18-2 at 6.) Although he
20 fails to support his request for the deed purchase and gas and
21 mileage by providing receipts or other similar evidence,
22 Plaintiff's counsel declares under penalty of perjury that a
23 total of \$670 in costs were incurred. (Kim Decl., ECF No. 18-2
24 at 3.) Thus, the Court grants these requests. See Garcia v.
25 Kim, No. CV 20-2136-KS, 2022 WL 3013238, at *10 (C.D. Cal. May
26 20, 2022) (accepting plaintiff's counsel's declaration that
27 plaintiff incurred litigation expenses in similar ADA case in
28 amount sought and awarding costs in that amount). Accordingly,

1 Plaintiff is awarded costs in the amount of \$670.

2 For the above reasons, Plaintiff is entitled to a total fees
3 and costs award of \$2,670.

4 **CONCLUSION**

5 Consistent with the foregoing, the Court ORDERS as follows:

6 1. Plaintiff's Motion for Default Judgment (ECF No. 18) is
7 GRANTED;

8 2. Judgment shall be entered in favor of Plaintiff against
9 Defendants So Cal Auto Clinic and Anoush Papazian, as
10 trustee of the Anoush Papazian Trust, in the amount of
11 \$6,670, consisting of \$4,000 in statutory damages,
12 \$2,000 in attorney's fees, and \$670 in costs; and

13 3. Defendants are ORDERED to comply with the Americans
14 with Disabilities Act and the Unruh Civil Rights Act by
15 providing an accessible entrance to the property
16 located at 7026 Foothill Boulevard, Tujunga,
17 California, in compliance with the Americans with
18 Disabilities Act Accessibility Guidelines.

19
20 IT IS SO ORDERED.

21
22 DATED: August 4, 2025



23 JEAN ROSENBLUTH
24 U.S. Magistrate Judge
25
26
27
28